



Economic Impact Analysis Virginia Department of Planning and Budget

**12 VAC 5-190 –State Plan for the Children with Special Health Care Needs program
Virginia Department of Health
April 7, 2006**

Summary of the Proposed Regulation

The proposed amendments will update the regulations to reflect the changes already occurred in phases since the late 1990s.

Result of Analysis

The costs and benefits of the proposed changes are not expected to be significant upon promulgation as they have already occurred in phases since the late 1990s.

Estimated Economic Impact

These regulations establish the state plan for the Children with Special Health Care Needs Program. This program provides enabling services, case management services, and population based services to children with special needs; assesses the community health status and available resources; and supports and encourages better health. The networks and sub-programs operate under this program include: Care Connection for Children, Child Development Services, Virginia Bleeding Disorders Program, Pediatric Screening and Genetics Services, Virginia Sickle Cell Awareness Program, Pediatric Comprehensive Sickle Cell Clinic Network. These programs provide services to over 100,000 newborns and adults through a network of over 100 local government agencies, non-profit, and for-profit organizations.

According to Virginia Department of Health (VDH), the Children with Special Health Care Needs Program has already been operating under the proposed version of the rules implemented in phases since the late 1990s. Thus, the proposed changes will merely reflect the changes already occurred in practice and are not expected to create any significant economic effects upon promulgation. However, eliminating the discrepancy between the regulatory

language and the way the program operates in practice could prevent or reduce potential confusions and exposure of VDH to litigation risks.

The major changes in this program that were implemented in practice includes: 1) shifting available resources from providing direct care to providing case management services such as providing help to uninsured recipients to obtain health coverage from available sources, 2) no longer requiring Children's Specialty Services recipients to pay a \$120 annual fee to participate in the costs of services provided, 3) removing the details of what may be purchased by the Pool of Funds, and 4) requiring prior authorization for expenditures instead of requiring prior authorization only for large vendor purchases. The remaining changes are simply clarifications of current language and requirements to reflect the operation of the plan in practice.

In general, implementing operational or procedural changes without going through the regulatory process and then updating the regulations to reflect what is already implemented in practice is a problematic approach as the agency would be operating contrary to its regulation. The lack of authority to enforce regulatory provisions combined with discrepancies between regulations and procedures followed in practice creates a potential for costly litigation expenses.

Also, the lack of pre-established priority order to receive services in the event that the resources are not enough to serve all applicants may be a shortcoming of the proposed regulations and may need to be explored for planning purposes. Currently, all applicants are provided services regardless of their income. Providing services to high income applicants would mean taking resources away from low income applicants if the resources fall short of the need. VDH indicates that the Commissioner has the authority to take actions to address this issue should the resources are exhausted. However, there appears to be no plan outlining how this would be done. It is not uncommon for regulatory agencies to have a plan of action to allocate services when the resources are not enough for all applicants. For example, the Department of Rehabilitative Services regulations, 12 VAC 30-20, stipulate activating an order of selection system that prioritizes among individuals eligible for vocational rehabilitation services in the event that resources are not sufficient to provide services to all.

Businesses and Entities Affected

The Children with Special Health Care Needs Program provides services to more than 100,000 newborns and individuals annually through over 100 entities including local government agencies, non-profit and for-profit organizations.

Localities Particularly Affected

The proposed regulations apply throughout the Commonwealth.

Projected Impact on Employment

The proposed regulations are not expected to create any significant effect on employment.

Effects on the Use and Value of Private Property

The proposed regulations are not expected to have any significant effect on the use and value of private property.

Small Businesses: Costs and Other Effects

The proposed regulations are not likely to significantly affect any providers including small businesses.

Small Businesses: Alternative Method that Minimizes Adverse Impact

The proposed regulations are not expected to have an adverse impact on small businesses.

Legal Mandate

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.H of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007.H requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has adverse effect on small businesses, Section 2.2-4007.H requires that such economic impact analyses include (i) an identification and estimate of the number of small

businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.